

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE FOR THE TWENTIETH  
JUDICIAL DISTRICT AT NASHVILLE

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STATE OF TENNESSEE,  
Petitioner,

v.

U.S. SALES CORP. doing business as  
United States Purchasing Exchange,

a foreign corporation

Respondent.

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**PETITION**

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Paul G. Summers, Attorney General and Reporter for the State of Tennessee, (hereinafter "Attorney General"), files this Petition pursuant to Tenn. Code Ann. § 47-18-107 of the Tennessee Consumer Protection Act of 1977 (hereinafter "the Act"), and would respectfully show the Court as follows:

1. The Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance ("the Division") and the Attorney General, acting pursuant to the Act (and in conjunction with other State Attorneys General as indicated in the multi-state Assurance attached as Exhibit A to the Agreed Order), have investigated some of the direct mail solicitation practices of U.S. Sales Corp. d/b/a United States Purchasing Exchange ("USPE" or "Respondent"). Upon completion of this multi-state investigation, the Division has determined that certain of the promotional messages disseminated by USPE in its direct mail solicitation materials, more specifically described in Paragraph 2 of this Petition, constitute unfair and deceptive acts or practices affecting the conduct of trade or commerce in the State of Tennessee in violation of Tenn. Code Ann. §§ 47-18-104(a) and (b)(27), 47-18-120 and 47-18-124.

2. Based on their and the multi-state investigation of Respondent, the Division and the Attorney General allege the following:

(a) Respondent is principally engaged in the business of direct mail marketing of magazine subscriptions and consumer products. Respondent has and does advertise its products and services nationally, including within Tennessee. Many of Respondent's solicitation materials include promotional sweepstakes.

(b) More specifically, the Division and the Attorney General are of the opinion that certain of the promotional messages disseminated by Respondent in its direct mail solicitation materials may constitute violations of the Tennessee Consumer Protection Act. Some examples include, but are not limited to:

(1) Consumers may have been led to believe by language in some past sweepstakes promotions by Respondent that persons placing orders were eligible to receive more prizes or entry opportunities or that purchasers had a better or increased chance of winning. From some language in some of the promotions, it may not have been clear to some consumers that Respondent's policy is that "No Purchase is Necessary" for an equal opportunity to enter and that consumers could write Respondent for more or future free opportunities to enter.

(2) Respondent has disseminated direct mail solicitation materials indicating that consumers must respond within a certain limited period of time, such as immediately or within 48 hours, in order to be eligible for a prize or gift, which may mislead consumers about the actual (generally more distant) deadline for eligibility for that promotional sweepstakes.

(3) Respondent has disseminated direct mail solicitation materials that do not disclose the odds of an entry winning the prizes offered in a promotional sweepstakes, in violation of Tenn. Code Ann. § 47-18-120(c)(1)(f).

(4) Respondent has disseminated direct mail solicitation materials that use phrases, insignias, and other graphic elements that may indicate to the consumer that the materials were sent by courier or an express delivery system capable of being monitored or tracked when in fact they were simply sent by bulk mail.

(c) The Division and the Attorney General are of the opinion that this alleged and other conduct in Respondent's solicitation materials, including promotional sweepstakes, constitutes, and if it continued in the future will constitute, unfair and deceptive acts or practices.

3. Respondent denies the allegations of Paragraph 2(a-c), any violation of consumer protection laws, and that its promotional messages are not fully explained in the solicitation materials.

4. Upon completion of the investigation, in accordance with the provisions set forth in Tenn. Code Ann. § 47-18-107, the Attorney General (in conjunction with other State Attorneys General, as indicated in the

multi-state Assurance attached as Exhibit A to the Agreed Order) entered into negotiations with Respondent and the parties have agreed to, and the Division has approved, the multi-state Assurance attached as Exhibit A to the Agreed Order.

5. In accordance with the provisions of Tenn. Code Ann. § 47-18-107(c), the execution, delivery and filing of the Assurance does not constitute an admission of prior violation of the Act.

6. The Division, the Attorney General, and the Respondent, the parties who are primarily interested in the matters set forth in Paragraph 2 hereof, have jointly agreed to the Assurance of Voluntary Compliance and join in its filing.

PREMISES CONSIDERED, Petitioner prays

1. That this Petition be filed without cost bond pursuant to the provisions of Tenn. Code Ann. §§ 20-13-101 and 47-18-116.

2. That the Assurance of Voluntary Compliance be approved and filed in accordance with the provisions of the Tennessee Consumer Protection Act.